RECENT DECISIONS

ADOPTION—RIGHT OF ADOPTED CHILD TO INHERIT FROM NATURAL CHILD OF THE FOSTER PARENT.—The Washington adoption statute provides that to all intents and purposes an adopted child shall be the legal heir of its adopter, and entitled to all rights and privileges as though it were begotten in lawful wedlock. Under this statute an adopted sister claimed that she was entitled to inherit from her foster brother along with the natural brothers and sisters of the deceased when there was no issue, consort, father or mother. *Held*, the adopted child can inherit. *McManis* v. *Lloyd* (Wash.), 183 Pac. 93.

Many courts adopt a much stricter construction of such statutes. Thus it has been held that an adopted child cannot inherit from the mother of its deceased foster parent under a statute which provides that the adopted child shall become the heir at law of the parent adopting it, and be as capable of inheriting as though it were the child of such parent. *Merritt* v. *Morton*, 143 Ky. 133, 136 S. W. 133, 33 L. R. A. (N. S.) 139, and note. An adopted child can inherit from its foster parent but not through him, for an adopted child is not the heir of ancestors of the adopting parent. This principle is the result of the strict construction of a statute identical with that in the instant case. *Phillips* v. *McConica*, 59 Ohio St. 1, 51 N. E. 445, 69 Am. St. Rep. 753. The Michigan statute, which provides that on the adoption of a child he shall become the heir at law of the adopting parents in the same manner as if he were in fact the child of such parents, does not make the child the heir of a brother of one of the adopting parents by right of representation. See *Derlyn* v. *Mack*, 137 Mich. 146, 100 N. W. 278, 109 Am. St. Rep. 669 and note, 4 Ann. Cas. 879 and note, 66 L. R. A. 437. An adopted child has no right to succeed to the estate of any member of the adopting family other than the adopting parent, and the child does not succeed to the estate of ancestors or collateral kin of the adopting parent or to the estate of children of such parents. See *Hockaday* v. *Lynn*, 200 Mo. 456, 98 S. W. 585, 118 Am. St. Rep. 672 and note, 9 Ann. Cas. 775 and note, 8 L. R. A. (N. S.) 117 and note. To the same effect see *Smith's Estate*, 225 Pa. 630, 74 Atl. 622, 133 Am. St. Rep. 894.

But the modern view tends to a more liberal construction of such statutes in favor of the adopted child. Thus it has been held that an adopted child inherits through its adopting parent from the latter's ancestors under a statute providing that the adopting parent and child shall sustain toward each other the legal relation of parent and child and have all the rights and privileges of inheritance from each other. *Shick* v. *Howe*, 137 Iowa 249, 114 N. W. 916, 14 L. R. A. (N. S.) 980. An adopted child may inherit from a child of one of its adopting parents if the statute provides that an adopted child shall take the same share in the estate of the adopting parent as if born in lawful wedlock. *Stearns* v. *Allen*, 183 Mass. 404, 67 N. E. 349, 97 Am. St. Rep. 441. The

Virginia statute is similar to the statute in the instant case but no case has arisen which involves the point in question. Va. Code, 1904, § 2614a.

CONFLICT OF LAWS—MARRIED WOMAN'S CONTRACT—LAWS OF WHAT STATE GOVERN.—A married woman domiciled in Tennessee made a contract in Tennessee void under the laws of that State, but to be performed in Virginia where such contracts were valid. All parties later became domiciled in Virginia. When sued on the contract in Virginia the married woman pleaded her disability under the Tennessee law. *Held*, the defendant is liable. For discussion of principles involved, see note, 5 VA. LAW REV. 345.

LIBEL AND SLANDER—PUBLICATION OF LIBELOUS AFFIDAVIT—QUALIFIED PRIVILEGE—CHARGE OF EMBEZZLEMENT A JURY QUESTION.—The cashier and assistant cashier of a bank prepared an affidavit, sworn to before a notary public, that the bank had paid a voucher to the plaintiff, signed by him as chairman of the board of education, which voucher stated on its face that it was to pay the plaintiff's expenses for a trip to a teachers' assembly. Such an expenditure was unauthorized. The defendant published this affidavit in his newspaper, alleging in effect that the plaintiff had converted the funds of the county without legal authority for his personal business. No such voucher was ever issued by the plaintiff. The plaintiff brought an action against the defendant for libel. *Held*, judgment for the plaintiff. *Lewis* v. *Carr* (N. C.), 101 S. E. 97.

A publication stating that the plaintiff, a chief of police, had collected certain fines of an official, which fines did not appear by the records of the police court to have been recorded, imputes to the plaintiff conduct tending to injure his reputation in the estimation of good citizens, and is libelous. *Moss* v. *Harwood*, 102 Va. 386, 46 S. E. 385. But such a publication does not of itself charge the plaintiff with embezzlement or larceny. See *Moss* v. *Harwood*, *supra*.

Publications may be made before or after mailing, either by dictation to a stenographer, or by making the contents of the letter known to other persons before or after it is mailed. *Sun Life Assurance Co.* v. *Bailey*, 101 Va. 443, 44 S. E. 692. The intent to circulate the libel in the instant case is shown by the preparation of the affidavit and the handing of it to the publisher. See *McGee* v. *Baumgartner*, 121 Mich. 287, 80 N. W. 21. The publication, by the cashier and assistant cashier, of the plaintiff's conversion of the money to his own use is not absolutely privileged. See *Martin* v. *Paine*, 69 Minn. 482, 72 N. W. 450. But such a publication may be qualifiedly privileged, and the plaintiff must show malice in order to recover. See *Howarth* v. *Barlow*, 113 App. Div. 510, 99 N. Y. Supp. 457. But such malice may be shown by the publication of a charge which the defendants knew, or should have known by means of information in their power, was false. See *Osborn* v. *Leach*, 135 N. C. 630, 47 S. E. 811, 66 L. R. A. 648.